

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF INDIANA
HAMMOND DIVISION

UNITED STATES OF AMERICA,)
)
Plaintiff,)
v.)
) Cause No. 2:19-cv-313
)
2014 Chevrolet Traverse LT)
VIN 1GNKRGKD2EJ175463.)
)
Defendant.)

VERIFIED COMPLAINT IN REM

Plaintiff, United States of America, by its attorneys, Thomas L. Kirsch II, United States Attorney for the Northern District of Indiana, and Orest Szewciw, Assistant United States Attorney, brings this complaint and alleges as follows in accordance with Supplemental Rule G(2) of the Federal Rules of Civil Procedure:

NATURE OF THE ACTION

1. This is an action to forfeit and condemn to the use and benefit of the United States of America pursuant to 21 U.S.C. § 881(a)(7) the following described property: a 2014 Chevrolet Traverse LT VIN: 1GNKRGKD2EJ175463 ("defendant property"), for violations of 21 U.S.C. § 841.

THE DEFENDANT(S) IN REM

2. Defendant property was seized on or about March 15, 2019, from Denis Ekwelle Mesumb in Porter County, Indiana. Defendant property is presently in the custody of the United States Marshal Service.

JURISDICTION AND VENUE

3. Plaintiff brings this action in rem in its own right to forfeit and condemn the defendant property. This Court has jurisdiction over an action commenced by the United States under 28 U.S.C. § 1345, and over an action for forfeiture under 28 U.S.C. § 1355(a).

4. This Court has *in rem* jurisdiction over the defendant property under 28 U.S.C. § 1355(b)

5. Venue is proper in this district pursuant to 28 U.S.C. §§ 1355(b)(1), because the acts or omissions giving rise to the forfeiture occurred in this district.

BASIS FOR FORFEITURE

6. The defendant vehicle is subject to forfeiture pursuant to 21 U.S.C. § 881(a)(7) because it was used to facilitate a violation of the Controlled Substances Act.

FACTS

7. On March 15, 2019, a law enforcement officer initiated a traffic stop

of defendant property for traffic violations. The driver, Denis Ekwell Mesumb, presented a Canadian driver's license. Due to inclement weather, the officer asked Mesumb to sit in the officer's vehicle while he conducted a vehicle and license check. The officer asked Mesumb about his itinerary and received implausible answers. The officer then asked Mesumb if there were any weapons, drugs or large amounts of cash in his vehicle and he replied there were not. The officer asked for consent to search Mesumb's vehicle and Mesumb consented.

8. During the search, the officer noticed that the floor board depth was noticeably shallow underneath the 3rd row seat and that the seat was sitting unreasonably high. The carpeting also felt loose and spongy. The officer also detected a strong odor of air freshener. When lifting the carpet, the officer noticed a hidden compartment underneath the 3rd row seat.

9. The officer then asked Mesumb about the hidden compartment and Mesumb confirmed he was aware of it. The officer then had his drug detecting dog do a free air sniff of the vehicle and the dog alerted positively to the presence of narcotics.

10. Upon accessing the hidden compartment, the officer discovered kilo size packages of suspected narcotics. The packages were vacuum sealed and wrapped in black electrical tape. The packages contained approximately

47 kilos of cocaine.

WHEREFORE, the plaintiff requests that the defendant property be forfeited and condemned to the United States of America; that Warrant of Arrest In Rem be issued for defendant property; that the plaintiff be awarded its costs and disbursements in this action; and for such other and further relief as this court deems proper and just.

Respectfully submitted,

THOMAS L. KIRSCH II
UNITED STATES ATTORNEY

By: /s/ Orest Szewciw
Orest Szewciw
Assistant U.S. Attorney
5400 Federal Plaza, Suite 1500
Hammond, Indiana 46320
(219)937-5500; fax: 219-852-2770
[email:orest.szewciw@usdoj.gov](mailto:orest.szewciw@usdoj.gov)

VERIFICATION

I, Andres Bustos, hereby verify and declare under penalty of perjury that I am a Task Force Officer with the U.S. Drug Enforcement Administration (DEA); that I have read the foregoing Verified Complaint In Rem and know the contents thereof, and that the matters contained in the Verified Complaint are true to the best of my knowledge.

The sources of my knowledge and information are the official files and records of the DEA, along with information supplied to me by other law enforcement officers, as well as my investigation of this case.

I hereby verify and declare under the penalty of perjury that the foregoing is true and correct.

Dated:

08-20-2019



Andres Bustos
Task Force Officer, DEA

CIVIL COVER SHEET

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The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS		DEFENDANTS																										
(b) County of Residence of First Listed Plaintiff _____ <i>(EXCEPT IN U.S. PLAINTIFF CASES)</i>		County of Residence of First Listed Defendant _____ <i>(IN U.S. PLAINTIFF CASES ONLY)</i>																										
(c) Attorneys (Firm Name, Address, and Telephone Number)		Attorneys (If Known)																										
II. BASIS OF JURISDICTION (Place an "X" in One Box Only)		III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)																										
<input type="checkbox"/> 1 U.S. Government Plaintiff	<input type="checkbox"/> 3 Federal Question <i>(U.S. Government Not a Party)</i>	Citizen of This State	<input type="checkbox"/> PTF 1 <input type="checkbox"/> DEF 1 Incorporated or Principal Place of Business In This State <input type="checkbox"/> PTF 4 <input type="checkbox"/> DEF 4																									
<input type="checkbox"/> 2 U.S. Government Defendant	<input type="checkbox"/> 4 Diversity <i>(Indicate Citizenship of Parties in Item III)</i>	Citizen of Another State	<input type="checkbox"/> PTF 2 <input type="checkbox"/> DEF 2 Incorporated and Principal Place of Business In Another State <input type="checkbox"/> PTF 5 <input type="checkbox"/> DEF 5																									
		Citizen or Subject of a Foreign Country	<input type="checkbox"/> PTF 3 <input type="checkbox"/> DEF 3 Foreign Nation <input type="checkbox"/> PTF 6 <input type="checkbox"/> DEF 6																									
IV. NATURE OF SUIT (Place an "X" in One Box Only)																												
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V. ORIGIN (Place an "X" in One Box Only)																												
<input type="checkbox"/> 1 Original Proceeding	<input type="checkbox"/> 2 Removed from State Court	<input type="checkbox"/> 3 Remanded from Appellate Court	<input type="checkbox"/> 4 Reinstated or Reopened	<input type="checkbox"/> 5 Transferred from Another District (specify) _____																								
		6 Multidistrict Litigation _____																										
VI. CAUSE OF ACTION		Cite the U.S. Civil Statute under which you are filing (<i>Do not cite jurisdictional statutes unless diversity</i>): Brief description of cause:																										
VII. REQUESTED IN COMPLAINT:		<input type="checkbox"/> CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.	DEMAND \$	CHECK YES only if demanded in complaint: JURY DEMAND: <input type="checkbox"/> Yes <input type="checkbox"/> No																								
VIII. RELATED CASE(S) IF ANY		(See instructions): JUDGE _____ DOCKET NUMBER _____																										
DATE		SIGNATURE OF ATTORNEY OF RECORD																										
FOR OFFICE USE ONLY																												
RECEIPT #		AMOUNT																										
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		MAG. JUDGE																										

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INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44

Authority For Civil Cover Sheet

The JS 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

- I.(a) Plaintiffs-Defendants.** Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.
 - (b) County of Residence.** For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)
 - (c) Attorneys.** Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".
- II. Jurisdiction.** The basis of jurisdiction is set forth under Rule 8(a), F.R.Cv.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.
 - United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here.
 - United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.
 - Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.
 - Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; **NOTE: federal question actions take precedence over diversity cases.**)
- III. Residence (citizenship) of Principal Parties.** This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.
- IV. Nature of Suit.** Place an "X" in the appropriate box. If the nature of suit cannot be determined, be sure the cause of action, in Section VI below, is sufficient to enable the deputy clerk or the statistical clerk(s) in the Administrative Office to determine the nature of suit. If the cause fits more than one nature of suit, select the most definitive.
 - V. Origin.** Place an "X" in one of the six boxes.
 - Original Proceedings. (1) Cases which originate in the United States district courts.
 - Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441. When the petition for removal is granted, check this box.
 - Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.
 - Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.
 - Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.
 - Multidistrict Litigation. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407. When this box is checked, do not check (5) above.
 - VI. Cause of Action.** Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.** Example: U.S. Civil Statute: 47 USC 553 Brief Description: Unauthorized reception of cable service
 - VII. Requested in Complaint.** Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.
 - Demand. In this space enter the actual dollar amount being demanded or indicate other demand, such as a preliminary injunction.
 - Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.
 - VIII. Related Cases.** This section of the JS 44 is used to reference related pending cases, if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.

Date and Attorney Signature. Date and sign the civil cover sheet.

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF INDIANA
HAMMOND DIVISION

UNITED STATES OF AMERICA,)
)
Plaintiff,)
v.)
) Cause No. 2:19-cv-313
)
2014 Chevrolet Traverse LT)
VIN 1GNKRGKD2EJ175463.)
)
Defendant.)

WARRANT FOR ARREST IN REM

TO: THE UNITED STATES MARSHAL FOR THE NORTHERN DISTRICT OF INDIANA AND/OR ANY OTHER DULY AUTHORIZED LAW ENFORCEMENT OFFICER:

WHEREAS, on August 20, 2019, the United States of America filed a verified complaint for civil forfeiture in the United States District Court for the Northern District of Indiana against the above-named defendant property, alleging that said property is subject to seizure and civil forfeiture to the United States for reasons mentioned in the complaint;

NOW THEREFORE, you are hereby commanded to arrest and take into your possession the above-named defendant property and to use whatever means appropriate to protect and maintain it in your custody until further order of the Court.

YOU ARE FURTHER COMMANDED to provide notice of this action to any person thought to have a potential interest in or claim against the defendant property by serving upon such person or to the attorney representing the potential claimant with respect to the seizure of the property, a copy of this warrant of arrest in rem and the verified complaint, in a manner consistent with the principles of service of process of an action in

rem under the Supplemental Rules for Admiralty or Maritime and Asset Forfeiture Claims, Federal Rules of Civil Procedure.

This warrant provides notice that in order to avoid civil forfeiture of the property, any person claiming an interest in, or right against, the property must file a claim in the court where the action is pending, pursuant to Rule G of the Supplemental Rules for Admiralty or Maritime and Asset Forfeiture Claims. The claim must identify the specific property claimed, identify the claimant and state the claimant's interest in the property, be signed by *the claimant* under penalty of perjury, and be served on the government attorney handling the case. A claimant must file a claim no later than 35 days after the date the notice is sent or, as applicable, no later than 30 days after the date of final publication of the notice of civil forfeiture. In addition, any person having filed such a claim shall also file an answer or motion to the complaint no later than 20 days after the filing of the claim.

All claims and answers or motions for the defendant property must be filed with the Office of the Clerk, United States District Court for the Northern District of Indiana, 5400 Federal Plaza, Hammond, Indiana 46320, and a copy of the claim and answer or motion sent to Assistant United Sates Attorney Orest Szewciw, United States Attorney's Office, 5400 Federal Plaza, Suite 1500, Hammond, Indiana 46320.

Additional procedures and regulations regarding this forfeiture action are found at 19 U.S.C. §§1602-1621.

YOU ARE FURTHER COMMANDED, promptly after execution of this process, to file the same in this Court with your return thereon, identifying the individuals upon whom copies were served and the manner employed.

Dated: _____

Robert N. Trgovich
Clerk of the Court

By: _____
Deputy Clerk